

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20050301-CA
v.)	
)	F I L E D
Brian Ray Karsten,)	(December 22, 2005)
)	
Defendant and Appellant.)	2005 UT App 549

Seventh District, Monticello Department, 041700088
The Honorable Lyle R. Anderson

Attorneys: Aric M. Cramer and J. Robert Latham, Bountiful, for
Appellant
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake
City, for Appellee

Before Judges Billings, Bench, and Greenwood.

PER CURIAM:

Brian Ray Karsten appeals from his convictions of possession of a controlled substance (methamphetamine), possession of a controlled substance (cocaine), and driving with a measurable controlled substance in the blood. Karsten entered a conditional guilty plea pursuant to State v. Sery, 758 P.2d 935 (Utah Ct. App. 1988). Karsten argues that the district court erred in denying Karsten's motion to suppress. Specifically, Karsten argues that state troopers improperly stopped his vehicle, then improperly conducted a Terry frisk. See Terry v. Ohio, 392 U.S. 1 (1968).

This court reviews the reasonableness of traffic stops and Terry frisks under a non-deferential correctness standard. See State v. Brake, 2004 UT 95, ¶15, 103 P.3d 699. Utah courts have consistently concluded that a law enforcement officer may stop a vehicle for violations of equipment regulations. See State v. Lopez, 873 P.2d 1127, 1140 (Utah 1994) ("If reasonable in scope, a traffic stop based on probable cause or reasonable suspicion that the driver has violated 'any one of the multitude of applicable traffic and equipment regulations' is lawful under the Fourth Amendment." (citations omitted)); State v. Spurgeon, 904

P.2d 220, 225 (Utah Ct. App. 1995) (concluding an equipment violation justifies an investigative stop by law enforcement officers). Thus, if Karsten's vehicle violated an equipment regulation, the troopers lawfully stopped the vehicle.

Utah Code section 41-6-140(2) prohibits a person from driving any vehicle "with any lamp or device capable of displaying a red or blue light visible from directly in front of the center of the vehicle." Utah Code Ann. § 41-6-140(2) (1998).¹ The state troopers stopped Karsten's vehicle for violating this section of the code. It is undisputed that Karsten had illuminated blue lights above his license plate that pointed forward. The clear language of the statute prohibited the use of such lights. Accordingly, because the blue lights on Karsten's car violated an applicable equipment regulation, the state troopers legally stopped Karsten's vehicle. Therefore, the state troopers did not violate Karsten's Fourth Amendment rights by stopping his vehicle for the equipment violation.

Karsten next argues that one of the state troopers violated his Fourth Amendment rights by conducting a Terry frisk without reasonable suspicion. See Terry v. Ohio, 392 U.S. 1 (1968); see also Utah Code Ann. § 77-7-16 (2003) ("A peace officer who has stopped a person temporarily for questioning may frisk the person for a dangerous weapon if he reasonably believes he or any other person is in danger."). This court has explained that "'two basic scenarios may warrant a Terry frisk.'" State v. Lafond, 2003 UT App 101, ¶19, 68 P.3d 1043 (citations omitted). Under the first scenario,

facts and circumstances unique to the particular suspect and/or factual context may give rise to a reasonable suspicion the suspect may be armed, such as a suspect with a bulge in his clothing that appears to be a weapon or a suspect who is hesitant in denying that he is armed and aggressively approaches the officer immediately upon being stopped.

Id. (citations and internal quotations omitted).

In the present case, as the state trooper approached Karsten's vehicle, he observed a knife in the backseat of Karsten's vehicle. Upon making contact with Karsten, the trooper asked Karsten for his driver's license, registration, and proof

¹This statute has since been renumbered as Utah Code section 41-6a-1616 (Supp. 2005).

of insurance. After noticing a problem with the proof of insurance card, the trooper asked for an updated card. As Karsten moved toward his visor, where Karsten's paperwork was located, the trooper observed another large knife concealed in the same area as the paperwork. The trooper stated that this was not an ordinary knife and described it as "an assault-type weapon." As a result, the trooper asked Karsten to exit the vehicle. While Karsten complied, the trooper noticed something in one of Karsten's pockets. Fearing it might be another weapon, the trooper performed a Terry frisk on Karsten. During this frisk the trooper found drugs and drug paraphernalia. We conclude that under these circumstances there existed "specific and articulable facts" such that "a reasonably prudent man . . . would be warranted in the belief that his safety or that of others was in danger." Terry, 392 U.S. at 21. Accordingly, the trooper's Terry frisk was justified and did not violate Karsten's Fourth Amendment rights.

Affirmed.

Judith M. Billings,
Presiding Judge

Russell W. Bench,
Associate Presiding Judge

Pamela T. Greenwood, Judge